

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

KENNETH NEWKIRK,

Plaintiff,

v.

Civil Action No. **3:24CV398 (RCY)**

UNKNOWN,

Defendant.

MEMORANDUM ORDER

Plaintiff, a Virginia prisoner currently held in Mississippi, submitted a letter (ECF No. 1) in which he “request[s] an appeal bond.” Letter at 1.¹ Plaintiff insists this letter is not a complaint pursuant to 42 U.S.C. § 1983 but is a “writ of habeas corpus that was originally filed in the Hampton, VA Circuit Court.” *Id.* Despite his insistence that this matter is a habeas petition, Plaintiff fails to identify a procedural vehicle that would authorize the actions that he seeks from the Court.² For this reason, the action is DISMISSED.

Nevertheless, the Clerk is DIRECTED to mail Petitioner a blank standardized form for filing a 28 U.S.C. § 2254 petition. If Plaintiff truly wishes to challenge the fact or the duration of his confinement, he may complete and return the form. The § 2254 petition will be opened as a new civil action.

The Clerk is DIRECTED to enter a final appealable Judgement in a Civil Case in favor of Defendant as a separate entry on the docket.

¹ The Court corrects the capitalization in the quotations from Plaintiff’s submissions.


² The Court has previously explained to Newkirk that this Court cannot order his release from detention and that, to bring an action in this Court, he must identify a violation of federal or constitutional law. *See, e.g., Newkirk v. Northam*, No. 3:23-cv-58–HEH, 2023 WL 2667995, at *1 (E.D. Va. Mar. 28, 2023).

Plaintiff does not request, and the Court does not grant, leave to amend, rendering this order final and appealable. *See Britt v. DeJoy*, 45 F.4th 790, 796 (4th Cir. 2022) (holding that an order dismissing a case without leave to amend is final and appealable). Should Plaintiff desire to appeal, a written notice of appeal must be filed with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a notice of appeal within that period may result in the loss of the right to appeal.

The Clerk is DIRECTED to send a copy of this Memorandum Order to Plaintiff.

It is so ORDERED.

Date: June 10 2024
Richmond, Virginia

/s/ 

Roderick C. Young
United States District Judge